

AMENDED IN ASSEMBLY APRIL 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 227**

**Introduced by Assembly Member Vargas**

January 29, 2003

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~~An act to add Section 1861.17 to the Insurance Code, relating to credit information. An act to add Section 5307.22 to the Labor Code, relating to workers' compensation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 227, as amended, Vargas. ~~Insurance: credit information~~  
*Workers' compensation: interim outpatient surgery facility fee schedule.*

*Existing law establishes a workers' compensation system to compensate an employee for injuries incurred arising out of or in the course of employment. Existing law requires injured employees to be provided with medical services, including surgical treatment. Existing law provides that the Administrative Director of the Division of Workers' Compensation has the sole authority to develop an outpatient surgery facility fee schedule, as specified, for services not performed under contract.*

*This bill would require the administrative director to develop an interim outpatient surgery facility fee schedule, as specified.*

~~Existing law provides for the regulation of insurers by the Insurance Commissioner and imposes various obligations on insurers with respect to the determination of insurance rates. Existing law provides for the commissioner to enforce these provisions by imposing certain penalties~~

and taking various licensing actions. Existing law also provides that a willful violation of certain provisions is a misdemeanor.

This bill would prohibit an insurer from using credit ratings, credit reports, credit scoring models, or credit information to underwrite, classify, or rate certain automobile and property insurance policies. The bill would also prohibit an insurer from refusing to issue those policies, and from nonrenewing or canceling those policies, based upon credit grounds. Because a willful violation of this provision would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes *no*.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1.~~ Section 1861.17 is added to the Insurance Code;
- 2 *SECTION 1. (a) The Legislature finds and declares all of the*
- 3 *following:*
- 4 *(1) Historically, California's no-fault workers' compensation*
- 5 *system has provided prompt, high-quality medical care for injured*
- 6 *workers while protecting employers from costly tort litigation*
- 7 *associated with workplace injuries. The treatment of workplace*
- 8 *injuries continues to be an essential component of California's*
- 9 *workers' compensation system.*
- 10 *(2) Today, California's workers' compensation benefit costs*
- 11 *total more than \$17 billion per year; approximately one-half of*
- 12 *which is for medical treatment. The system is suffering from rising*
- 13 *medical and legal costs, inefficiencies, and fraud and abuse by*
- 14 *workers, employers, insurance companies, and providers.*
- 15 *(3) The use of quality control systems and proper utilization in*
- 16 *medical treatment will reduce the current inefficiencies in the*
- 17 *workers' compensation system and limit the need for costly legal*
- 18 *arguments.*
- 19 *(4) Medical cost control reform must include provisions for*
- 20 *prompt payment by insurers for medical treatment provided and*

1 *address inefficiencies and other factors that drive costs in the*  
2 *workers' compensation system, such as the management of claims*  
3 *processing and adjudication.*

4 *(5) Medical cost control reforms must ensure that injured*  
5 *workers continue to receive timely access to high-quality medical*  
6 *treatment.*

7 *(6) Workers' compensation insurance premiums are causing an*  
8 *extreme hardship to employers.*

9 *(7) Medical expenses are a major component of the cost of*  
10 *workers' compensation benefits.*

11 *(8) Previously enacted measures have yet to be implemented*  
12 *due to state budget pressures, and interim medical cost controls are*  
13 *required to meet the urgent situation faced by California*  
14 *employers and insurance carriers.*

15 *(b) It is the intent of the Legislature to implement workers'*  
16 *compensation medical cost control reform by addressing cost*  
17 *containment and savings mechanisms in medical provider*  
18 *payments for inpatient and outpatient facility services, physician*  
19 *services, chiropractic care, physical therapy, vocational*  
20 *rehabilitation, and pharmacy services, and addressing other*  
21 *appropriate inefficiencies and factors that drive costs in the*  
22 *medical treatment of injured workers.*

23 *SEC. 2. Section 5307.22 is added to the Labor Code, to read:*  
24 *5307.22. (a) Pending the development of an outpatient*  
25 *surgery facility fee schedule pursuant to Section 5307.21, the*  
26 *administrative director shall adopt an interim fee schedule*  
27 *utilizing data that meets all of the following criteria:*

28 *(1) The data is based on objective data obtained from the*  
29 *outpatient facility data maintained by the Medicare program in its*  
30 *Standard Analytical Outpatient File (SAOF).*

31 *(2) The data is based on a ranking of this data from low to high*  
32 *charges that array the data into percentiles of charges.*

33 *(3) The data is organized into geographical areas, such as ZIP*  
34 *Codes.*

35 *(4) The data is maintained by an independent, disinterested*  
36 *organization that is widely accepted by insurance carriers and*  
37 *providers of medical services.*

38 *(5) The data is updated at least quarterly.*

1 (b) The administrative director may contract with any entity  
2 that maintains data meeting the criteria described in subdivision  
3 (a) to assist the administrative director in developing the schedule.

4 (c) The administrative director shall establish the interim  
5 outpatient surgery facility fee schedule at no higher than the 70th  
6 percentile of the data described in subdivision (a).

7 (d) The administrative director shall establish the interim  
8 outpatient surgery facility fee schedule after notice and public  
9 comment, and after taking into account the views and input of  
10 insurance carriers, providers of outpatient surgical services,  
11 employers, patients receiving outpatient surgery services, and  
12 organized labor.

13 (e) The interim outpatient surgery facility fee schedule shall be  
14 adopted as soon as possible after the effective date of this section,  
15 in compliance with the rulemaking provisions of the  
16 Administrative Procedures Act.

17 to read:

18 1861.17. (a) Notwithstanding any other provision of law, an  
19 insurer shall not use credit ratings, credit reports, credit scoring  
20 models, or credit information to underwrite, classify, or rate  
21 insurance policies that are subject to Section 660 or 675. An  
22 insurer shall not refuse to issue, or nonrenew or cancel, an  
23 insurance policy based upon credit ratings, credit reports, credit  
24 scoring models, or credit information.

25 (b) The commissioner shall enforce this section pursuant to  
26 Section 1861.14.

27 SEC. 2. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 the only costs that may be incurred by a local agency or school  
30 district will be incurred because this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the penalty  
32 for a crime or infraction, within the meaning of Section 17556 of  
33 the Government Code, or changes the definition of a crime within  
34 the meaning of Section 6 of Article XIII B of the California  
35 Constitution.